



## **DEPARTMENT OF AGRICULTURE**

### **Food and Nutrition Service**

#### **Agency Information Collection Activities: FNS Information Collection Needs due to COVID-19; Comment Request for Extending Approval for OMB #0584-0654**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** FNS is seeking public comment on its intent to ask the Office of Management and Budget (OMB) to extend approval of the information collection under OMB approval #0584-0654 from January 31, 2022 until August 27, 2023. In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed extension of this currently approved information collection, which focuses on FNS' information collection needs due to COVID-19 based on information currently known.

**DATES:** Written comments must be received on or before (insert date that is 30 days after publication in the Federal Register).

**ADDRESSES:** Comments may be sent to: Maureen Lydon and Jamia Franklin of the Food and Nutrition Service, U.S. Department of Agriculture, via email to [Maureen.lydon@usda.gov](mailto:Maureen.lydon@usda.gov) and [Jamia.Franklin@usda.gov](mailto:Jamia.Franklin@usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this information collection should be directed to Jamia Franklin at [Jamia.franklin@usda.gov](mailto:Jamia.franklin@usda.gov) or 703-305-2403, and Maureen Lydon at [Maureen.lydon@usda.gov](mailto:Maureen.lydon@usda.gov), or 703-457-7713.

**SUPPLEMENTARY INFORMATION:** Comments are invited on: (a) The proposed extension of OMB approval and whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: FNS Information Collection Needs due to COVID-19.

Form Number:

OMB Number: 0584-0654

Expiration Date: January 31, 2022

Type of Request: Extension of a currently approved collection

Abstract: As the Food and Nutrition Service (FNS) continues responding to the COVID-19 Coronavirus pandemic, it is implementing a number of waivers and program adjustments to ensure Americans in need can access nutrition assistance during the crisis while maintaining recommended practices.

Two pieces of legislation have detailed many of the program adjustments available to FNS. The Families First Coronavirus Response Act (PL 116-127) (FFCRA) and the Coronavirus Aid,

Relief and Economic Security (CARES) Act (PL 116-136) provided a number of program adjustments and additional funding, respectively. The statutes describing these waivers and flexibilities also have reporting requirements. The Department obtained OMB approval to collect the information described in this Notice (OMB 0584-0654; expiration 1/31/2022). USDA anticipates the need to collect data beyond the expiration date and is seeking approval of this Information Collection Request in order to meet continuing information collection and reporting requirements, as well as program administration needs to implement the CARES Act.

In addition to program adjustments and waiver flexibilities authorized under the FFCRA and CARES Act, Section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) (NSLA) allows FNS to waive statutory and regulatory requirements established under the NSLA or Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for a State or eligible service provider administering a Child Nutrition Program (CNP). FNS issues statewide waivers under NSLA waiver authority in response to State agencies' requests to facilitate the ability for Program operators to carry out the purposes of CNPs during COVID-19-related operations. FNS has issued waivers under NSLA authority to enable program operators to operate CNPs with appropriate safety measures in place with respect to the COVID-19 pandemic. NSLA waiver authority requires States or eligible service providers in need of a waiver of program requirements to submit a detailed application that identifies the statutory or regulatory requirements to be waived. Applications must also describe any actions undertaken to remove barriers, describe the goal of the waiver to improve services, and include a description of the impediments to the efficient operation and administration of the program. States must provide notice to the public regarding each waiver request submitted to FNS, and States that receive a waiver approval of program requirements under NSLA waiver authority must submit a report on waiver implementation, including whether the waiver resulted in improved services to children.

Section 2302(a)(2) of the FFCRA allowed USDA to adjust, at the request of State agencies or by guidance in consultation with one or more State agencies, issuance methods and application and reporting requirements for the Supplemental Nutrition Assistance Program (SNAP) under the Food and Nutrition Act (FNA) of 2008, as amended, to be consistent with what is practicable under actual conditions in affected areas. Section 2302(c) of FFCRA required the Secretary of Agriculture to submit a report to Congress following the end of the public health emergency, including a description of the measures taken to address the food security needs of affected populations during the emergency, including any information or data supporting State agency requests, among other information not included in this information collection (IC).

Section 2203(a)(1) of the FFCRA allowed State agencies administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) to request a waiver of 17(d)(3)(C)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(i)), which requires applicants be physically present in the clinic. Local agencies are required to submit a report detailing the use and benefits of this waiver within one year of use of such waiver, and State agencies are required to submit a summary report of local agency usage of waivers under this Section within 18 months. Section 2204(a)(1) gave State agencies administering WIC and the WIC Farmers Market Nutrition Program (FMNP) the opportunity to request a waiver or modification of qualified regulatory requirements from USDA if such requirements cannot be met due to COVID-19, and such waivers are necessary to provide assistance to WIC and WIC FMNP participants. State agencies are also required under this Section to provide a report to USDA no later than one year after such waivers were granted, detailing their use of the waiver and how it improved services to women, infants and children.

In the instances described above, the information collection addressed and/or will address burden associated with requirements under provisions of the NSLA, FFCRA, and CARES Act, as well as Nationwide waivers under some of the aforementioned authorities. State agencies have been required to develop and submit waiver requests in response to COVID-19, provide public notification regarding waiver requests, and report to FNS evaluation data on how waivers impacted Federal benefit programs.

Additionally, FNS is asking State agencies to report the USDA commodities used during a disaster on a more frequent basis. This information is currently collected in an OMB-approved form, the FNS-292A, Report of Commodity Distribution for Disaster Relief (OMB Control Number 0584-0594 Food Programs Reporting System, expiration July 31, 2023). State distributing agencies may release commodity or donated foods procured by the USDA to disaster organizations to provide nutritional assistance to disaster victims. Under the Code of Federal Regulations (CFR) at 7 CFR 250.69(f), State distributing agencies shall provide a summary report to FNS within 45 days following termination of the disaster assistance, and maintain records of these reports and other information relating to disasters. OMB approved FNS to change the frequency of the collection of the commodity reports from 45 days after the completion of the disaster, to a weekly basis. This change was requested due to the number of requests and the burden of the FNS regional offices. This request allowed FNS Food Distribution (FD) staff to monitor levels of USDA commodities more frequently to ensure States had access to USDA commodities.

Affected Public: State, Local and Tribal Government: Respondent groups identified include: (1) State agencies and Indian Tribal Organizations that operate USDA Nutrition Assistance Programs; and (2) Local WIC Agencies.

Estimated Number of Respondents: The total estimated number of respondents is 1,349.

This includes: 53 SNAP State agencies who will submit waiver information, evaluation information, and weekly operational updates; 20 WIC State program staff who will submit evaluation information and a data pull from their MIS system; 22 Farmers Market Nutrition Program staff who will submit evaluation information; 67 CNP State agencies who will develop and submit waiver requests, provide public notification, and report to FNS on waiver implementation; Food Distribution Program Staff in 60 State Agencies who will submit required forms; and 800 WIC Local Agency Program staff who will submit information on an evaluation survey. Table 1, the estimated burden table below, delineates the number of respondents carrying out each of the aforementioned activities.

As shown in Table 1, FNS anticipates two types of respondents: State Government workers and Local Government workers. Together, their reporting burden is approximately 11,549 burden hours, assuming data collection over 12 months.

SNAP State Program Staff will have two types of burden:

- Waivers: FNS anticipates approximately 3 waiver requests per every 3 months per State agency. SNAP Program Staff in 53 State Agencies will submit approximately 3 waiver requests per every 3 months. Each waiver will take about 10 hours to complete for a total of 6,360 burden hours. [53 State Agency staff x 3 waivers per every 3 months on an annual basis (12 waiver requests) = 636 responses x 10 hours = 6,360 burden hours]
- Data Reports: SNAP Program Staff in 53 State Agencies will submit approximately 3 data reports, reporting on the evaluation data required by FFRCA. It will require about 3 hours to report the data in the data reports for a total of 159 burden hours. (53 State

Agency Staff x 3 data reports = 159 responses x 3 hours = 477 burden hours).

- Weekly operational update: SNAP program staff in 53 State Agencies will submit 1 weekly update to their FNS Regional Offices. Each update will take approximately 1 hour to complete. (53 State agencies x 52 weekly reports = 2,756 annual responses x 1 hour per response = 2,756 burden hours).

WIC State Program Staff will have one type of burden:

- Evaluation Information: WIC Program Staff in 20 State Agencies will submit 1 survey, reporting on the evaluation data required by the FFRCA. It will take them about 2 hours to complete the survey, for a total of 40 burden hours. (20 State Agency Staff x 1 survey = 20 responses x 2 hours = 40 burden hours).

- MIS Data Pull: FNS will request states submit a data pull from their MIS systems to help facilitate the evaluation data reporting on the number of WIC participants affected by different waivers. (20 WIC State Agencies x 1 data pull = 20 Responses x 1.5 hours per response = 30 burden hours)

FMNP State Program Staff will have one type of burden:

- Evaluation Information: FMNP Program Staff in 22 State Agencies will submit 1 State Plan, reporting on the evaluation data required by the FFRCA. It will take them about 2 hours to complete the report, for a total of 44 burden hours. (22 State Agency Staff x 1 State Plan = 22 Responses x 2 hours = 44 burden hours)

CN Program Staff will have one type of burden:

- Statewide, COVID-related waivers authorized under Section 12(l) of the NSLA: It is estimated 67 State agencies review statewide waiver protocol and guidance pertaining to the waiver authority established at Section 12(l) of the NSLA, such as *Child Nutrition Program Waiver Request Guidance and Protocol- Revised* (Memo code: SP15 CACFP 12 SFSP 05-2018). FNS estimates State agencies revisit NSLA waiver guidance one time

each year, and that it takes approximately 15 minutes (.25 hours) to review guidance (67 responses x .25 hours = 16.75 hours).

Furthermore, FNS estimates 67 CN State agencies will request statewide waivers that follow guidance outlined in *Child Nutrition Program Waiver Request Guidance and Protocol- Revised* (Memo code: SP15 CACFP 12 SFSP 05-2018) and submit waiver requests to FNS. It is estimated, together, 67 State agencies will develop and request a total of 130 statewide waivers of CN Program requirements and that each request will take approximately 1 hour to develop and submit to FNS (130 responses x 1 hour = 130 hours). Each State agency that submits a request is required to provide public notice regarding the request. FNS estimates 67 State agencies will provide 130 public notices associated with statewide waiver requests submitted under Section 12(l) waiver authority, and that it takes 30 minutes (.5 hours) to provide each public notice (130 responses x .5 hours = 65 hours).

Of the total 130 estimated statewide waiver requests, FNS estimates 100 will be approved, and will require State agencies to report on waiver implementation within 1 year of the approval date. It takes approximately 30 minutes (.5 hours) for State agencies to develop and submit evaluation data on statewide waiver implementation (100 responses x .5 hours = 50 hours).

Food Distribution State program staff will have one type of burden:

- FNS292A: Food Distribution Program Staff in 60 State Agencies will submit form FNS 292A 52 times (weekly over twelve months). It will take them approximately 15 minutes to complete the form each time for a total of 780 burden hours (60 State Agency Staff x 52 submissions = 3,120 responses x .25 hours = 780 burden hours).

WIC Local Government Agency Staff: Local Agency staff in about 800 Local WIC agencies will



submit 1 survey to FNS. It will take 1 hour to complete and submit the report for a total of 800 burden hours (800 Local Agency Staff x 1 submission = 800 responses x 1 hour = 800 burden hours).

Table 1 – Respondent Estimated Burden Table

Respondent Category and Type of Respondent	Instruments	Number of respondents	Estimated Frequency of response	Total annual estimated responses	Hours per response	Annual Estimated burden (hours)
State Government Estimates						
SNAP State Program	Waiver	53	12	636	10	6,360
SNAP State Program	Data Reports	53	3	159	3	477
SNAP State Agency	Weekly Operational Update	53	52	2,756	1	2,756
WIC State Program Staff	Evaluation Survey	20	1	20	2	40
WIC State Program Staff	MIS Data Pull	20	1	20	1.5	30
FMNP State Program Staff	Evaluation Info	22	1	22	2	44
CN State Agency	Review 12(l) waiver guidance	67	1	67	.25	16.75
CN State Agency	12(l) Waiver Development and Submission	67	1.94	130	1	130
CN State Agency	12(l) Waiver Public Notice	67	1.94	130	.5	65
CN State Agency	12(l) Reporting	67	1.5	100	.5	50
Local Government Estimates						
Food Distribution State Program	Form FNS292A	60	52	3,120	.25	780
WIC Local Agency Program Staff	Report to State	800	1	800	1	800
<b>Respondent Estimated Total</b>		1,349	129.38	7,960	23	11,548.75

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Cynthia Long,  
Administrator,  
Food and Nutrition Service.